

Fiscal Service, Treasury

§212.7

the account review only one time upon the first service of a given garnishment order. The financial institution shall not repeat the account review or take any other action related to the order if the same order is subsequently served again upon the financial institution. If the financial institution is subsequently served a new or different garnishment order against the same account holder, the financial institution shall perform a separate and new account review.

(g) *No continuing or periodic garnishment responsibilities.* The financial institution shall not continually garnish amounts deposited or credited to the account following the date of account review, and shall take no action to freeze any funds subsequently deposited or credited, unless the institution is served with a new or different garnishment order, consistent with the requirements of this part.

(h) *Impermissible garnishment fee.* The financial institution may not charge or collect a garnishment fee against a protected amount, and may not charge or collect a garnishment fee after the date of account review.

§212.7 Notice to the account holder.

A financial institution shall issue the notice required by §212.6(e) in accordance with the following provisions.

(a) *Notice requirement.* The financial institution shall send the notice in cases where:

(1) A benefit agency deposited a benefit payment into an account during the lookback period; and

(2) The balance in the account on the date of account review was above zero dollars and the financial institution established a protected amount.

(b) *Notice content.* The financial institution shall notify the account holder named in the garnishment order of the following facts and events in readily understandable language.

(1) The financial institution's receipt of an order against the account holder.

(2) The date on which the order was served.

(3) A succinct explanation of garnishment.

(4) The financial institution's requirement under Federal regulation to ensure that account balances up to the

protected amount specified in §212.3 are protected and made available to the account holder if a benefit agency deposited a benefit payment into the account in the last two months.

(5) The account subject to the order and the protected amount established by the financial institution.

(6) The financial institution's requirement pursuant to State law to freeze other funds in the account to satisfy the order and the amount frozen, if applicable.

(7) The amount of any garnishment fee charged to the account, consistent with §212.6.

(8) A list of the Federal benefit payments subject to this part, as identified in §212.2(b).

(9) The account holder's right to assert against the creditor that initiated the order a further garnishment exemption for amounts above the protected amount, by completing exemption claim forms, contacting the court of jurisdiction, or contacting the creditor, as customarily applicable for a given jurisdiction.

(10) The account holder's right to consult an attorney or legal aid service in asserting against the creditor that initiated the order a further garnishment exemption for amounts above the protected amount.

(11) The name of the creditor, and, if contact information is included in the order, means of contacting the creditor.

(c) *Optional notice content.* The financial institution may notify the account holder named in the garnishment order of the following facts and events in readily understandable language.

(1) Means of contacting a local free attorney or legal aid service.

(2) Means of contacting the financial institution,

(3) By issuing the notice required by this part, the financial institution is not providing legal advice.

(d) *Amending notice content.* The financial institution may amend the content of the notice to integrate information about a State's garnishment rules and protections, for the purposes of avoiding potential confusion or harmonizing the notice with State requirements, or providing more complete information about an account.

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(e) *Notice delivery.* The financial institution shall issue the notice directly to the account holder, or to a fiduciary who administers the account and receives communications on behalf of the account holder, and only information and documents pertaining to the garnishment order, including other notices or forms that may be required under State or local government law, may be included in the communication.

(f) *Notice timing.* The financial institution shall send the notice to the account holder within 3 business days from the date of account review.

(g) *One notice for multiple accounts.* The financial institution may issue one notice with information related to multiple accounts of an account holder.

(h) *Not legal advice.* By issuing a notice required by this part, a financial institution creates no obligation to provide, and shall not be deemed to be offering, legal advice.

§212.8 Other rights and authorities.

(a) *Exempt status.* Nothing in this part shall be construed to limit an individual's right under Federal law to assert against a creditor a further exemption from garnishment for funds in excess of the protected amount, or to alter the exempt status of funds that may be protected from garnishment under Federal law.

(b) *Account agreements.* Nothing in this part shall be construed to invalidate any term or condition of an account agreement between a financial institution and an account holder that is not inconsistent with this part.

§212.9 Preemption of State law.

(a) *Inconsistent law preempted.* Any State or local government law or regulation that is inconsistent with a provision of this part is preempted to the extent of the inconsistency. A State law or regulation is inconsistent with this part if it requires a financial institution to take actions or make disclosures that contradict or conflict with the requirements of this part or if a financial institution cannot comply with the State law or regulation without violating this part.

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(b) *Consistent law not preempted.* This regulation does not annul, alter, affect, or exempt any financial institution from complying with the laws of any State with respect to garnishment practices, except to the extent of an inconsistency. A requirement under State law to protect benefit payments in an account from freezing or garnishment at a higher protected amount than is required under this part is not inconsistent with this part if the financial institution can comply with both this part and the State law requirement.

§212.10 Safe harbor.

(a) *Protection during examination and pending review.* A financial institution that complies in good faith with this part shall not be liable to a creditor that initiates a garnishment order, or for any penalties under State law, contempt of court, civil procedure, or other law for failing to honor a garnishment order, for account activity during:

(1) The two business days following the financial institution's receipt of a garnishment order during which the financial institution must determine if the United States or a State child support enforcement agency has attached or included a Notice of Right to Garnish Federal Benefits, as set forth in §212.4; or

(2) The time between the financial institution's receipt of the garnishment order and the date by which the financial institution must perform the account review, as set forth in §212.5.

(b) *Protection when protecting or freezing funds.* A financial institution that complies in good faith with this part shall not be liable to a creditor that initiates a garnishment order for any protected amounts, to an account holder for any frozen amounts, or for any penalties under State law, contempt of court, civil procedure, or other law for failing to honor a garnishment order in cases where:

(1) A benefit agency has deposited a benefit payment into an account during the lookback period, or

(2) The financial institution has determined that the order was obtained by the United States or issued by a